



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,927	12/06/2000	Norifumi Sumimoto	1417-333	7442

23117 7590 05/22/2003

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

EXAMINER

YOON, TAE H

ART UNIT	PAPER NUMBER
----------	--------------

1714

DATE MAILED: 05/22/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/29,927

Applicant(s)

Sumimoto et al

Examiner

T. Yoon

Group Art Unit

1714

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 5-13-03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-4 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-4 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some* ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1714

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 288 298 in view of Jang et al (US 6,451,889 or 2002/0065343), Itoh et al (US 5,760,120), Fuhr et al (US 5,272,193), JP 10-237246 or JP 7-292233.

Rejection is maintained for reason of record and following.

Applicant asserts that EP 0 288 298 is silent as to the flame retardancy for home electrical appliances, and thus a combination of references is improper, but the examiner disagrees with such assertion. Note that a motivation can be found not only in the primary references, but also in the secondary references and/or from a common knowledge in the art. The secondary references teach the use of a phosphorus-based flame retardant in molding compositions for electrical and/or electronic parts, and thus said combination is a *prima facie* obviousness.

Tables showing comparative data have been considered and found persuasive but fail to overcome the rejection because the scope of the claim is broader than said data. Note that Jang et al teach n for a phosphorus-based flame retardant being 0-4 and not less than 1. Thus, comparative examples using 0 and 0.3 for n has a shortcoming, and data for n greater than the recited upper limit 1.2 are needed. Itoh et al teach phosphazene compounds at col. 5, line 54, but

Art Unit: 1714

the instant table is silent as to such compounds. Also, with respect to tables 1-3 utilizing various particle size distribution, the instant particle size distribution encompasses a particle size mainly (close to 100%) greater than 150 nm and smaller than 350 nm, and EP teaches very narrow and substantially no particles having particle diameter of 150 nm or less and 210 nm or more which falls within the instant limitation. However, tables do not show such particle size distribution, and a comparison must be based on the closest prior art, not on applicant's own choice. Note that the instantly recited "comprising" permits the presence of other component which may be found in the cited art.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 288 298 in view of Jang et al (US 6,451,889 or 2002/0065343), Itoh et al (US 5,760,120), Fuhr et al (US 5,272,193), JP 10-237246 or JP 7-292233, and further in view of Kasahara et al (US 5,039,714) or Maeda et al (US 4,965,315).

Rejection is maintained for reason of record and following.

Note that the rejection of claims 2 and 3 is included, and omission of said claims from the heading of the last office action was an honest error as evidenced by the citation of Kasahara et al and Maeda et al in the heading and context. The cover letter clearly showed the rejection of claims 1-4. Also, applicant failed to amend the claim such as an incorporation of claim 2 in claim 1 (applicant has noticed the rejection of claims 1 and 4 only) and presented

Art Unit: 1714

argument mainly directed to claim 1. Applicant did not address claims 2 and 3 in spite of the office action containing the use of a lubricant. Thus, the final rejection would be fair.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (703) 308-2389. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9311.

Art Unit: 1714

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

THY/May 20, 2003


TAE H. YOON
PRIMARY EXAMINER